

Notice of Allowability

Application No.

09/755,204

Examiner

Joseph T. Voitach

Applicant(s)

YANG ET AL.

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to November 9, 2005.
2. ☒ The allowed claim(s) is/are 96-108.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

This application claims benefit to provisional applications 60/174,383, filed January 4, 2000 and 60/174,424, filed January 4, 2000.

Applicants' supplemental amendment filed November 9, 2005, has been received and entered. Claims 1-95 have been canceled. Claims 96-108 have been added. Claims 96-108 are pending.

Examiner's Comment

The allowance was withdrawn because of patentability issues not previously made of record. Specifically, the recitation of the term "about" into the claim(s) was considered new matter under 35 USC 112, first paragraph. Applicants' requested that alternative language finding literal support in the specification be considered before another action on the merits be mailed. During an interview with Ms. Kitchell, specific language in the specification was indicated and reviewed in light of the claimed invention. Examiner reviewed a draft set of claims and indicated that the proposed claims addressed the issues raised by the office, and did noted other minor issues regarding the patentability of the claims. Applicants' indicated that a supplemental amendment would be sent reflecting the Examiner's comments. See also Interview summary.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

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The amendment to the claims have addressed the basis of the rejections set forth 35 USC 112, first paragraph, of new matter. The claims now recite specific limitations literally supported by the instant specification. Further, it is noted that the specific limitations of 10 and 15 passages, or 14, 20 or 30 doublings, encompass a range of cell culturing steps that was not suggested in the prior art. To the contrary, the prior art supported the use of cells wherein the cell is passaged as few times as possible. It is noted that the use of donor cells that are serum starved cells and in a quiescent state was known in the prior art (see for example, Stice *et al.* IDS reference), however the prior art does not specifically teach or make obvious the specific conditions of using cells that have been passaged ten times or more, or analogously, for 14 or more doublings. Moreover, the practice of the methodology in bovine resulted in unexpected results of increasing the pregnancy rate as well as an increase in the calving rate as evidenced by the efficiency of 64% at ten passages provided in the working example.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

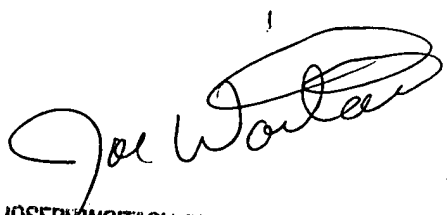
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Woitach whose telephone number is (571) 272-0739.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla, can be reached at (571) 272-0735.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group analyst Dianiece Jacobs whose telephone number is (571) 272-0532.

Joseph T. Voitach



JOSEPH WOITACH, PH.D.
PRIMARY EXAMINER